

AMENDMENTS TO LB 488

Introduced by Revenue

1           1. Strike original section 3 and insert the following new  
2 section:

3           Sec. 3. (1) There shall be allowed a refundable credit  
4 against the income tax imposed by the Nebraska Revenue Act of 1967  
5 to a taxpayer who donates during the taxable year all or part of  
6 the value of a perpetual conservation easement upon real property  
7 the taxpayer owns to the state, to the natural resources district  
8 that contains the land that would be subject to the conservation  
9 easement, or to a charitable organization that is approved to  
10 hold conservation easements by the natural resources district  
11 that contains the land covered by the conservation easement.  
12 A charitable organization that proposes to hold a conservation  
13 easement shall name in the easement a cooperating agency or  
14 organization that will automatically accept the easement should the  
15 charitable organization cease to exist. The amount of the credit  
16 shall not include the value of any portion of an easement on real  
17 property located in another state.

18           (2) To qualify for the income tax credit:

19           (a) The taxpayer shall file an application with the  
20 Department of Natural Resources no later than August 1 of the tax  
21 year for which the tax credit is sought. The application shall  
22 include an appraisal by a certified general real estate appraiser  
23 who can demonstrate either experience or continuing education

1 in the appraisal of conservation easements. The department shall  
2 review the application and may approve applications for that year  
3 for conservation easements in one of the following areas which meet  
4 the requirements set forth in subdivision (2)(c) of this section:

5 (i) Areas designated by the department and affected  
6 natural resources districts as quick response water shortage  
7 areas in over-appropriated basins and areas subject to interstate  
8 compacts, agreements, and decrees. Within this category, the  
9 department may not require that conservation easements provide  
10 public access, but applications must list public benefits expected  
11 to result from the easement, including, but not limited to, water  
12 quality protection, flood protection, ecotourism opportunities,  
13 public access for hunting, fishing, and ecotourism, and critical  
14 habitat preservation; and

15 (ii) Areas designated by the Game and Parks Commission  
16 as biologically unique landscapes in the Nebraska natural legacy  
17 plan. Within this category, approval of an application must be  
18 recommended by the commission, except in the Niobrara scenic  
19 river corridor (72-2008), in which case the application must  
20 be recommended by the Niobrara Council. Within this category,  
21 the commission or council may not require that conservation  
22 easements provide public access, but applications must list public  
23 benefits expected to result from the easement, including, but not  
24 limited to, water quality protection, flood protection, ecotourism  
25 opportunities, public access for hunting, fishing, and ecotourism,  
26 and critical habitat preservation;

27 (b) The taxpayer shall file with the Department of

1 Revenue, at the same time as the taxpayer files a return for the  
2 taxable year in which the income tax credit is claimed, a certified  
3 copy of the approved application with the value of the conservation  
4 easement as approved by the Department of Natural Resources;

5 (c) The perpetual conservation easement shall, at a  
6 minimum:

7 (i) Preclude any pumping of ground water except for (A)  
8 domestic purposes, (B) stock well purposes, and (C) restoration of  
9 wetlands. For easements in areas described in subdivision (2)(a)(i)  
10 of this section, the easement may permit pumping of water during  
11 any period when the Department of Natural Resources determines  
12 there is not a water quantity shortage;

13 (ii) For easements in areas described in subdivisions  
14 (2)(a)(ii) of this section, prohibit new commercial, industrial,  
15 and residential development, or other uses that result in the  
16 destruction of wildlife habitat, native plant communities, historic  
17 sites, or other conservation values identified in the easement.  
18 This subdivision shall not be construed to prohibit hunting,  
19 fishing, ecotourism, or removal of invasive species or noxious  
20 weeds; and

21 (iii) Be in perpetuity;

22 (d) The perpetual conservation easement shall be filed  
23 with the office of the register of deeds of each county in which  
24 real property subject to the easement is located; and

25 (e) The holder of the perpetual conservation easement  
26 shall have a monitoring program to ensure that the terms of the  
27 easement are followed. If the holder is a charitable organization

1 that has designated a governmental agency as a successor holder,  
2 annual monitoring reports shall be provided to that agency.

3 (3) The Department of Natural Resources shall review  
4 applications for any year and approve qualifying conservation  
5 easements by November 1. The department shall not approve  
6 applications for tax credits which would total more than five  
7 million dollars for any one year. If qualified applications would  
8 result in tax credits totaling more than five million dollars in  
9 the year, the department shall prioritize qualifying applications  
10 based on criteria developed by the department that maximize the  
11 amount of water conserved or unique landscapes protected from  
12 development and shall only approve qualifying applications totaling  
13 five million dollars or less in tax credits for that year.

14 (4) Upon approval, the department shall send to the  
15 applicant a certified copy of the approved application with the  
16 approved value of the conservation easement for purposes of the tax  
17 credit.

18 (5) The income tax credit shall be an amount equal to  
19 fifteen percent of the appraised value of the donated portion  
20 of the perpetual conservation easement, not to exceed two  
21 hundred fifty thousand dollars. In the case of a partnership,  
22 subchapter S corporation, or other similar pass-through entity  
23 that donates a perpetual conservation easement as an entity, the  
24 two-hundred-fifty-thousand-dollar limitation shall be calculated at  
25 the entity level and the credit shall be allocated to the entity's  
26 partners, members, or shareholders in proportion to the partners',  
27 members', or shareholders' distributive shares of income from the

1 entity.

2 (6) A taxpayer may claim the income tax credit under this  
3 section on only one conservation easement per taxable year.

4 (7) On or before January 1, 2009, and each January  
5 1 thereafter, the Department of Revenue shall issue a report  
6 to the Legislature and Governor detailing the use of income  
7 tax credits under this section. A portion of the report shall  
8 show perpetual conservation easements and income tax credits by  
9 natural resources district, the number of acres protected, the  
10 conservation values that were preserved, and the public benefits  
11 that resulted from these easements. The Department of Natural  
12 Resources and Game and Parks Commission shall assist the Department  
13 of Revenue with this portion of the report. The report shall be  
14 presented using aggregated information and other techniques so as  
15 not to reveal confidential information that allows identification  
16 of any taxpayer. The report shall not be issued until the Tax  
17 Commissioner has confirmed in writing that the report does not  
18 reveal any confidential information that allows identification of  
19 any taxpayer.

20 (8) No new applications shall be accepted for tax credits  
21 after December 31, 2012.